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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

Reply To
Attn Of: ECL-113

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JUL 14

Project Management

July 7, 2000

Ms. Kathleen E. Hain, Director
Environmental Restoration Division
U.S. Department of Energy
Idaho Operations Office
850 Energy Drive
Idaho Falls, Idaho 83401-1563

Re: Response to Letter, Dated June 30, 2000, Concerning Request for Modification
Milestones for Waste Area Group 7.

Reference: Letter, W. Pierre to K. Hain, dated April 26, 2000, Response to Letter,
Dated April 13, 2000, Concerning Request for Modification of Milestones
for Waste Area Group 7.

Dear Ms Hain:

This is in response to your letter dated June 30, 2000, in which you request extensions to the Operable Unit (OU) 7-10 and OU 7-13/14 enforceable deadlines. Your letter comes somewhat as a surprise, especially in light of the informal negotiations and discussions that have been ongoing between the Idaho Department of Environmental Quality (DEQ), Environmental Protection Agency (EPA) and Department of Energy-Idaho Operation Office (DOE-ID) staffs. These discussions were initiated by your previous letter of April 13, 2000. Also, your letter is silent on the Agreement in Principle that we jointly signed during our negotiations the week of April 17, 2000. Your extension request, as was the case with your prior letter, asks that DEQ and EPA representatives agree to enter into negotiations to adjust WAG 7 work plans and deadlines. However, your letter does not address EPA's April 26, 2000, written reply to your earlier extension request, nor does it acknowledge other communications received from the DEQ and EPA concerning this matter.

Further, your request makes no reference to applicable sections of the Federal Facility Agreement and Consent Order (FFA/CO), which would be the basis for any deadline extension. It also does not include the minimum information required under Section 13.1, i.e., a) the timetable and deadline or the schedule that is sought to be extended; b) the length of the extension sought; c) the good cause(s) for the extension; and d) any timetable and deadline or schedule that would be affected if the extension were granted.

At page 2 of your letter you state, "Based on our [DOE-ID's] evaluation of the OU 7-10 Staged Interim Action Project and the data needs for the OU 7-13/14 RI/FS [Remedial Investigation and Feasibility Study], DOE believes delaying the implementation of the OU 7-10 Stage II until the Record of Decision [ROD] for OU 7-13/14 is completed is the best course." We know of no defensible basis for this statement. The OU 7-10 (i.e., Pit 9) Stage II is a pilot-scale demonstration to test the feasibility of the retrieve, treat and dispose (RTD) option for use in the Stage III design. Pit 9 remedial action is under a signed ROD, committing the Agencies to perform necessary cleanup. Stage II is a step towards achieving cost-effective cleanup. OU 7-13/14 is an ongoing RI/FS. The only commitment DOE-ID has under OU 7-13/14 is to perform a study, part of which the results are already obvious. Remedial action is necessary to abate the potential threat to health and the environment posed by the past disposal of hazardous substances, including TRU wastes, in these unlined pits and trenches. The only remaining question is what remedial action(s) are needed. Any and all characterization activities should be directed towards this goal.

In your letter you further state, "Should the OU 7-13/14 RI/FS substantiate retrieval as part of the remedy for the pits and trenches, DOE will implement a remedy, based on the Stage II design for OU 7-10, in accordance with the OU 7-13/14 Record of Decision." Again, Stage II is only a pilot-scale demonstration. Stage III is full-scale retrieval, treatment and disposal. As such, the Stage II cost estimate and design do not provide the critical information necessary to evaluate the RTD alternative. Stage II implementation will provide this information in the form of waste and interstitial soil characterization, container integrity, TRU loading, accuracy of disposal information, effectiveness of retrieval equipment, etc. As stated in the Technical and Functional Requirements for Stage II, "The third stage, Stage III, is overall remediation of Pit 9 using the information derived from Stage II."

The Stage II Summary schedule contained in your June 21, 2000, submittal (see Binder I-A, RD/RAWP), shows a date for the submittal of the Stage II RA Report and the Stage III Title II design, seven years after the start of the June 2000 RD/RAWP review, assuming that Stage II would not be deferred or delayed, as your letter recommends. Please note that these dates are not in compliance with the established enforceable deadline dates.

We are unable to agree that an extension of any of the requested WAG 7 deadlines would be based on "good cause," from the information DOE-ID has provided to date. Although we agree that the results of recent Pit 9 Stage I probing have provided new information, we do not agree that probing alone is sufficient to characterize the pits and trenches, including Pit 9, that have received significant quantities of TRU wastes and other radioactive and hazardous constituents. Currently, we have only 20 probe holes installed under Stage I of the Pit 9 Interim Action. These probes were placed in an area representing less than 4% of the Pit 9 surface, but suspected to have a sizable amount of TRU-waste shipments. The results of the probe-hole geophysics identified only one probe-hole location as containing significant TRU concentrations, which represents less than 0.2% of the Pit 9 surface area. A conclusion that may be drawn from these results is that the TRU contamination is not uniformly distributed throughout the reported disposal locations. Based on documents available to EPA and its consultants, the potential concentration of TRU waste disposed of in Pit 9 and other pits and trenches may represent a nuclear criticality threat if appropriate remedial actions are not undertaken.

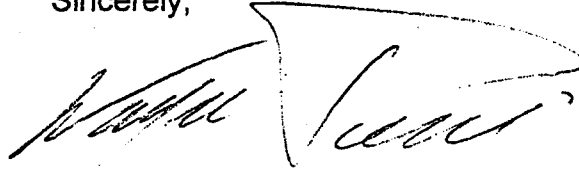
The risks justifying the Pit 9 Interim Action ROD are still existent. The preliminary OU 7-13/14 risk characterization studies performed to date, appear inconsistent with and less conservative than assumptions and methodologies used at other Waste Area Groups which are under Agencies' approved RI/FS's and signed RODs. Given the heterogeneity of the wastes, in Pit 9, the unknown integrity of the containers and packing materials used, and the potential that nuclear criticality safety significant quantities of plutonium were disposed of in selected waste drums sent from the Rocky Flats Plant to the Subsurface Disposal Area in the 1960's, it is necessary to continue the O.U. 7-10 Stage II remedial activities.

It is very important that we collect data to support potential implementation of in-situ technologies like Vitrification. It is equally important that we complete the Pit 9 Stage II retrieval project to provide a defensible evaluation and cost basis for cleaning up WAG 7. We cannot assess the risks posed from these 30+ year-old disposal sites without the information and data gained by such planned activities. Given DOE-ID's apparent budget limitations, we cannot responsibly make defensible remedial decisions otherwise. Using parametric cost estimates for the RTD option without pilot-scale information does not adequately assess the feasibility of this option.

Pursuant to the FFA/CO, DOE-ID has the option of making a claim to extend a deadline pursuant to Paragraph 12.3. These deadline extensions may include a Remedial Investigation and Feasibility Study or a Remedial Action Report submittal date. As before, we are available to discuss the merits of this option with you based on the understanding that any extension request agreement is subject to an internal EPA review and approval process.

Please contact me at (206) 553-7261, if I can be of further assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Wayne Pierre', written over a faint, large, stylized outline of a triangle or arrow pointing to the right.

Wayne Pierre
Project Manager

cc: Dean Nygard, IDHW-DEQ
Brian Edgerton, DOE-ID
Aaron Armstrong, DOE-ID
Daryl Koch, IDHW-DEQ
Jean Underwood, IDHW-DEQ